

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86342864
LAW OFFICE ASSIGNED	LAW OFFICE 105
MARK SECTION	
MARK	http://tmng-al.uspto.gov/resting2/api/img/86342864/large
LITERAL ELEMENT	TAFFY TOWN
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size or color.
ARGUMENT(S)	
<p>In the Final Office Action sent May 27, 2015, the Examining Attorney maintained the refusal to register the applied-for mark for Class 25 only because of a likelihood of confusion with the mark in U.S. Registration No. 4006306.</p> <p>Applicant filed a Request to Divide Application on November 24, 2015, dividing Classes 03 and 21 from the present application.</p> <p>Applicant respectfully proposes the identification of goods for Class 25 be amended to the following:</p> <p>Clothing, namely, shirts, t-shirts, hats, caps, beanies, socks sold and distributed as promotional and ancillary goods associated with the candy industry</p> <p>Applicant respectfully asserts that Applicant's proposed amended identified goods are not so closely related to the identified goods of the '306 Registration as to create a likelihood of confusion.</p> <p>Applicant respectfully requests that the present application be allowed for publication.</p> <p>If the Examining Attorney requires any changes to the application that could be made by Examiner's Amendment, Applicant respectfully requests that she telephone the undersigned attorney at: (801) 533-9800.</p> <p>The Commissioner for Trademarks is authorized to charge any additional fees associated with this response to Deposit Account No. 23-3178.</p>	

GOODS AND/OR SERVICES SECTION (003)(no change)	
GOODS AND/OR SERVICES SECTION (021)(no change)	
GOODS AND/OR SERVICES SECTION (025)(current)	
INTERNATIONAL CLASS	025
DESCRIPTION	
Clothing, namely, shirts, t-shirts, hats, caps, beanies, socks	
FILING BASIS	Section 1(b)
GOODS AND/OR SERVICES SECTION (025)(proposed)	
INTERNATIONAL CLASS	025
TRACKED TEXT DESCRIPTION	
Clothing, namely, shirts, t-shirts, hats, caps, beanies, socks ; <u>Clothing, namely, shirts, t-shirts, hats, caps, beanies and socks sold and distributed as promotional and ancillary goods associated with the candy industry</u>	
FINAL DESCRIPTION	
Clothing, namely, shirts, t-shirts, hats, caps, beanies and socks sold and distributed as promotional and ancillary goods associated with the candy industry	
FILING BASIS	Section 1(b)
SIGNATURE SECTION	
RESPONSE SIGNATURE	/John C. Stringham, 40831/
SIGNATORY'S NAME	John C. Stringham
SIGNATORY'S POSITION	Attorney of record, Utah bar member
SIGNATORY'S PHONE NUMBER	801-533-9800
DATE SIGNED	11/24/2015
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Tue Nov 24 20:34:01 EST 2015
TEAS STAMP	USPTO/RFR-XXX.XXX.XX.XXX- 20151124203401464215-8634 2864-540b2e928d854b3e3315 fa9bb074a167dd37ae7b16818 a791873b16f873ffd10b9-N/A -N/A-20151124203322106346

Request for Reconsideration after Final Action To the Commissioner for Trademarks:

Application serial no. **86342864** TAFFY TOWN(Standard Characters, see <http://tmng-al.uspto.gov/resting2/api/img/86342864/large>) has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

In the Final Office Action sent May 27, 2015, the Examining Attorney maintained the refusal to register the applied-for mark for Class 25 only because of a likelihood of confusion with the mark in U.S. Registration No. 4006306.

Applicant filed a Request to Divide Application on November 24, 2015, dividing Classes 03 and 21 from the present application.

Applicant respectfully proposes the identification of goods for Class 25 be amended to the following:

Clothing, namely, shirts, t-shirts, hats, caps, beanies, socks sold and distributed as promotional and ancillary goods associated with the candy industry

Applicant respectfully asserts that Applicant's proposed amended identified goods are not so closely related to the identified goods of the '306 Registration as to create a likelihood of confusion.

Applicant respectfully requests that the present application be allowed for publication.

If the Examining Attorney requires any changes to the application that could be made by Examiner's Amendment, Applicant respectfully requests that she telephone the undersigned attorney at: (801) 533-9800.

The Commissioner for Trademarks is authorized to charge any additional fees associated with this response to Deposit Account No. 23-3178.

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 025 for Clothing, namely, shirts, t-shirts, hats, caps, beanies, socks

Original Filing Basis:

Filing Basis: Section 1(b), Intent to Use: *For a trademark or service mark application:* As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services in the application. ***For a collective trademark, collective service mark, or collective membership mark application:*** As of the application

filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. ***For a certification mark application:*** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

Proposed:

Tracked Text Description: ~~Clothing, namely, shirts, t-shirts, hats, caps, beanies, socks;~~ Clothing, namely, shirts, t-shirts, hats, caps, beanies and socks sold and distributed as promotional and ancillary goods associated with the candy industry

Class 025 for Clothing, namely, shirts, t-shirts, hats, caps, beanies and socks sold and distributed as promotional and ancillary goods associated with the candy industry

Filing Basis: Section 1(b), Intent to Use: ***For a trademark or service mark application:*** As of the application filing date, the applicant had a bona fide intention, and was entitled, to use the mark in commerce on or in connection with the identified goods/services in the application. ***For a collective trademark, collective service mark, or collective membership mark application:*** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by members on or in connection with the identified goods/services/collective membership organization. ***For a certification mark application:*** As of the application filing date, the applicant had a bona fide intention, and was entitled, to exercise legitimate control over the use of the mark in commerce by authorized users in connection with the identified goods/services, and the applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant.

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /John C. Stringham, 40831/ Date: 11/24/2015

Signatory's Name: John C. Stringham

Signatory's Position: Attorney of record, Utah bar member

Signatory's Phone Number: 801-533-9800

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the owner's/holder's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the owner/holder in this matter: (1) the owner/holder has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the owner/holder has filed a power of attorney appointing him/her in this matter; or (4) the owner's/holder's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 86342864

Internet Transmission Date: Tue Nov 24 20:34:01 EST 2015

TEAS Stamp: USPTO/RFR-XXX.XXX.XX.XXX-201511242034014

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